

**---DRAFT UNAPPROVED ---**

**VIRGINIA BOARD OF MEDICINE  
EXECUTIVE COMMITTEE MINUTES**

Friday, August 10, 2007

Department of Health Professions

Richmond, VA

**CALL TO ORDER:** The meeting convened at 8:49 a.m.

**MEMBERS PRESENT:** Stephen Heretick, JD, President  
Robert Mosby, MD, Vice-President  
Jane Piness, MD, Secretary-Treasurer  
Gen. Clara Adams-Ender, RN, MSN, USA Retired  
Sandra Bell, MD  
Suzanne Everhart, DO  
Valerie Hoffman, DC  
Malcolm Cothran, MD, Ex Officio

**MEMBERS ABSENT:** Ellen Shapiro, DPM

**STAFF PRESENT:** William L. Harp, MD, Executive Director  
Jennifer Deschenes, Deputy Executive Director - Discipline  
Barbara Matusiak, MD, Medical Review Coordinator  
Ola Powers, Deputy Executive Director - Licensure  
Sandra Ryals, Director, DHP  
Emily Wingfield, Chief Deputy Director, DHP  
Amy Marschean, Assistant Attorney General  
Elaine Yeatts, DHP Senior Policy Analyst  
Colanthia Morton Opher, Recording Secretary

**OTHERS PRESENT:** Michael Jurgensen, MSV  
Chelsea Miller, Hancock, Daniel, Johnson & Nagel, PC

**ROLL CALL**

**Emergency Evacuation Procedures**

Dr. Mosby read the Emergency Evacuation Procedures.

**Adoption of Agenda**

Dr. Mosby moved to adopt the agenda with the addition of item #11 - consideration of statutory amendment. The motion was seconded and carried.

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### **Public Comment on Agenda Items**

There was no public comment on agenda items.

### **Approval of the April 6, 2007 Minutes**

Dr. Bell moved to accept the minutes of April 6, 2007. The motion was seconded and carried.

### **NEW BUSINESS**

#### **DHP Director Update on DHP Performs**

Ms. Ryals gave an update on the progress of the agency's move and key performance measures. Ms. Ryals spoke of statistical research completed by Ms. Carter and Ms. Stanbach and stated that it has been very useful in recognizing areas of accountability as well as areas where we have little or no control such as mandatory reporting.

Ms. Ryals explained the tiered approach for the investigative division and advised that administrative and inspection staff are being re-deployed to handle more upfront administrative and routine tasks. Ms. Ryals stated that this should assist in decreasing some of the time a case is in Enforcement.

Ms. Ryals also gave an overview of the percentage of patient cases resolved in the last three fiscal years and addressed the perceived downward trend, tiering the investigations, requests for experts, and the challenges with report writing. Ms. Wingfield reported that a new shell for investigative reports is in the works that should prove to be helpful for the boards.

Dr. Harp summarized the steps Board staff has taken since June including cases blitzing with each region (excluding NOVA), meeting with APD staff and closing 12 cases at the investigative level.

Ms. Ryals noted that the definition of patient care is still being hashed out and the categories are being re-analyzed to determine if patient harm is indicated by certain categories.

Dr. Everhart stated that the question should be whether the initial complaint was a care issue directly from the patient or whether it has the potential to become a patient care issue.

Ms. Ryals also mentioned the technology challenges facing our investigative staff, and what steps the agency is taking to address those hurdles stating that imaging technology is being considered.

### **Regulatory Actions**

Dr. Harp presented regulatory matters in Ms. Yeatts' absence.

#### **A. Six Month Extension for Regulations for Restricted Volunteer Licenses**

## **---DRAFT UNAPPROVED ---**

Dr. Harp advised that restricted volunteer licensed was approved with an expiration date February 27, 2008.

### **B. Synchronization of Proposed Pain Management Regulations with Proposed DEA Regulations for Schedule II Drugs**

Dr. Harp advised that the issue on the table is whether the current pain management regulations should be changed to be consistent with anticipated Federal regulations.

Dr. Cothran moved to amend the proposed pain management regulations to be consistent with the anticipated Federal regulations. The motion was seconded and carried.

### **C. Code Cite Corrections**

Dr. Piness moved to approve the code cite corrections in those regulations requiring such a change. The motion was seconded and carried.

### **Consideration of Office-Based Surgery Regulations Or A Guidance Document**

Dr. Bell moved to take no action on this issue. The motion was seconded and carried with one opposed.

Dr. Harp will craft a response to the author of the letter that asked that this matter be reviewed.

### **Investigation of Older Malpractice Cases**

Dr. Harp addressed the Board regarding the review of old medical malpractice cases. Dr. Harp posed the question of how far back in time does the Board want staff to go to investigate these cases. Dr. Harp asked the Board to consider allowing the director and the case review coordinator the authority to identify specific elements within the medical malpractice cases that rise to the level of an investigation regardless of the priority, forward, close on review, or send back for investigation.

Ms. Wingfield advised that the investigative team is developing a guidance checklist for investigators detailing essential elements the Board requires in order for staff to make an informed probable cause decision.

After brief discussion, Dr. Harp suggested that staff present additional information at the October 18<sup>th</sup> meeting to address some of the questions raised.

### **Prescription Monitoring Program Educational Module as Type I Continuing Education**

Dr. Everhart moved to support the online continuing medical education module on chronic nonmalignant pain management developed jointly by DHP/PMP and VCU that will be accessible through DHP/PMP's website as Type I CE. The motion was seconded and carried.

## **---DRAFT UNAPPROVED ---**

### **Physician Assistants Use of the Federation of State Medical Boards Credentialing Verification Service**

Dr. Mosby moved to accept the use of the Federation of State Medical Boards Credentials Verification Systems for all physician assistant applicants for licensure. The motion was seconded and carried.

### **Request for Sponsorship of Legislation for Orthopedic Technicians**

Dr. Hoffman moved to refer this issue to the Board of Health Professions to conduct a study to identify individuals who seek to be licensed and determine if a licensure need exists. Dr. Harp will author a letter to Mr. Solan and convey the Board's recommendation.

### **Consideration of Membership in the International Association of Medical Regulatory Authorities**

Dr. Bell moved to approve the Board's membership to IMARA. The motion was seconded and carried.

### **Citizen Advocacy Center Meeting**

Dr. Harp advised of the upcoming meeting being held in Seattle, WA, October 2007. Anyone interested in attending should contact board staff.

### **Discipline Report**

Ms. Deschenes re-reviewed the CCA and Case Status numbers. Ms. Deschenes advised that agency subordinates will be used to adjudicate profile cases in September 2007.

Dr. Mosby asked that Board staff provide an updated accomplishment report October 18, 2007.

Dr. Bell moved to authorize the Deputy Executive Director of Discipline to approve requests for continuances. The motion was seconded and carried.

### **Proposed Profiling Legislation**

Ms. Wingfield advised that the proposed profiling legislation would exclude interns and residents, inactive, restricted volunteer licensees, foreign graduates in hospitals, and expired licensees from mandatory completion of the practitioner profile.

Dr. Hoffman moved to accept the proposed legislation. The motion was seconded and carried.

### **Announcements**

**---DRAFT UNAPPROVED ---**

Dr. Harp mentioned that with the changes in the credentials process, licenses granted by the Credentials Committee with terms and conditions are now required to be ratified by the Full Board or the Executive Committee. Board staff is asking the Executive Committee to consider a time change to 1:00 p.m. so any Credentials Committee recommendations can be presented in a timely manner. The Committee agreed in the time change.

Dr. Harp announced that October 20<sup>th</sup> is being considered for holding a board retreat.

**Next scheduled meeting:** December 7, 2007

**Adjournment:** With no other business to conduct, the meeting adjourned at 9:35 a.m.

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Stephen E. Heretick, JD  
President

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William L. Harp, M.D.  
Executive Director

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Colanthia Morton Opher  
Recording Secretary